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REPORT  
OF THE  
ATTORNEY-GENERAL

SUBMITTED  
TO THE GOVERNOR UNDER THE ACT OF JULY 23, 1945.

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## REPORT OF THE ATTORNEY-GENERAL.

ATTORNEY-GENERAL'S OFFICE, }  
TALLAHASSEE, FLA., December 31, 1884. }

To his Excellency William D. Bloxham, Governor of Florida:

DEAR SIR: It is the duty of the Attorney-General to make a written report to the Governor at this time "as to the effect and operation of the acts of the last session of the Legislature, the decision of the courts thereon, and referring to the previous legislation on the subject," with such suggestions as in the opinion of the former, the public interest may demand. In compliance with such duty I have the honor to submit the following:

### REGULATION OF THE SALE OF LIQUORS.

The constitutionality of the act, approved March 3d, 1883, (chapter 3416), commonly *spoken of* as "The Local Option Law" was assailed soon after its enactment. In the case of *The State ex rel. Aspen vs. Brown*, Collector of Revenue, reported in the 19th Volume of our Supreme Court decisions, the 5th and 6th sections of the act were held to be unconstitutional in so far as they seek to invest the County Commissioners with judicial power to hear, try and determine a complaint against the holder of a license, and to impose a penalty by revoking a license. The ground of this holding is that such sections attempts to create a *court* other than is authorized by the Constitution of the State. The statute, however, in so far as it requires that an applicant for a license shall produce to the Board of County Commissioners, an application signed by a majority of the registered voters in the election district in which he desires the privilege to sell, and otherwise comply with the terms prescribed," is held to be "a valid act not repugnant to the Constitution of this State or of the United States." In the case of the *State ex rel. Markins vs Brown*, 20 Fla. Repts., 407, it was contended that this statute had not been enacted in accordance with the *forms* prescribed by the Constitution of the State, but the Supreme Court held that it had been. In the case of the *State ex rel. Basch vs. The County Commissioners of Jefferson county*, 20 Fla., Repts., 425, the act was again before the court on questions of construction.

It is, of course, for the legislative power to determine whether this statute shall remain in force. If that determination be that it shall, the act should be